

Eric H. Gibbs (State Bar No. 178658)  
ehg@girardgibbs.com  
Dylan Hughes (State Bar No. 209113)  
Geoffrey A. Munroe (State Bar No. 228590)

**GIRARD GIBBS LLP**

601 California Street, Suite 1400  
San Francisco, California 94108  
Telephone: (415) 981-4800  
Facsimile: (415) 981-4846

Melissa M. Harnett (State Bar No. 164309)  
mharnett@wcclaw.com

Gregory B. Scarlett (State Bar No. 131486)

**WASSERMAN, COMDEN & CASSELMAN, L.L.P.**

5567 Reseda Boulevard, Suite 330  
Post Office Box 7033  
Tarzana, California 91357-7033  
Telephone: (818) 705-6800  
Facsimile: (818) 345-0162

Attorneys for Individual and Representative  
Plaintiff Carlos Collado

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CARLOS COLLADO, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

TOYOTA MOTOR SALES, U.S.A., INC.,  
a California corporation,

Defendant.

) Case No. 2:09-cv-03087-R-RC

) **CLASS ACTION**

) **PLAINTIFF'S REQUEST FOR  
JUDICIAL NOTICE**

) Date: July 20, 2009

) Time: 10:00 a.m.

) Judge: Hon. Manuel L. Real

1 Pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiff Carlos Collado  
2 respectfully requests that the Court take judicial notice of the following fact in  
3 considering Defendant's Motion to Dismiss:

4 1. The Office of Defects Investigation (ODI) of the National Highway Traffic  
5 Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE09-019) to  
6 investigate allegations of headlight failure in MY2006-2007 Toyota Prius vehicles.  
7 Attached as **Exhibit 1** is a true and correct copy of NHTSA letter informing Toyota of  
8 the investigation, which is publicly available through NHTSA's website. *See*  
9 [http://nhthqnwws111.odi.nhtsa.dot.gov/acms/docServlet/Artemis/Public/Pursuits/2009/P](http://nhthqnwws111.odi.nhtsa.dot.gov/acms/docServlet/Artemis/Public/Pursuits/2009/PE/INIM-PE09019-35210.pdf)  
10 [E/INIM-PE09019-35210.pdf](http://nhthqnwws111.odi.nhtsa.dot.gov/acms/docServlet/Artemis/Public/Pursuits/2009/PE/INIM-PE09019-35210.pdf) .  
11

12 DATED: July 6, 2009

Respectfully submitted,

13 **GIRARD GIBBS LLP**

14  
15 By: /s/ Eric H. Gibbs

16  
17 Dylan Hughes  
18 Geoffrey A. Munroe  
19 601 California Street, 14th Floor  
20 San Francisco, California 94108  
21 Telephone: (415) 981-4800  
22 Facsimile: (415) 981-4846

23  
24 Melissa M. Harnett  
25 Gregory B. Scarlett  
26 **WASSERMAN, COMDEN & CASSELMAN, L.L.P.**  
27 5567 Reseda Boulevard, Suite 330  
28 Post Office Box 7033  
Tarzana, California 91357-7033  
Telephone: (818) 705-6800  
Facsimile: (818) 345-0162

*Attorneys for Individual and Representative  
Plaintiff Carlos Collado*

# **EXHIBIT 1**



U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

MAY 6 2009

1200 New Jersey Avenue SE  
Washington, DC 20590

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Christopher J. Tinto, Vice President  
Toyota Motor North America, Inc.  
Technical and Regulatory Affairs  
601 Thirteenth Street, NW  
Suite 910 South  
Washington, DC 20005

NVS-212am  
PE09-019

Dear Mr. Tinto:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE09-019) to investigate allegations of headlight failure in MY 2006-2007 Toyota Prius vehicles manufactured by Toyota Motor, and to request certain information.

This office has received 338 reports of headlight failure in MY 2006-2007 Toyota Prius vehicles. Complainants state that the headlights are shutting off while driving the vehicle. Of the 338 complaints, 112 reports are stating that both headlights shutoff simultaneously resulting in total loss of headlight illumination. A copy of each report has already been emailed to your office.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject vehicles:** All MY 2006-2007 Toyota Prius vehicles manufactured for sale or lease in the United States.
- **Subject component(s):** All headlight light control Electronic Control Unit (ECU) modules and associated switches, connectors, and wiring harnesses on the subject vehicles.
- **Toyota:** Toyota Motor Corporation, Toyota Motor North America, Inc., all of its past and present officers and employees, whether assigned to their principal offices or any of its field or other locations, including all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Toyota (including all business units and persons



previously referred to), who are or, in or after 2002, were involved in any way with any of the following related to the alleged defect in the subject vehicles:

- a. Design, engineering, analysis, modification or production (e.g. quality control);
- b. Testing, assessment or evaluation;
- c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
- d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.

- **Alleged defect:** Loss of headlight illumination.

- **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Toyota, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Toyota or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good will," "make," "model," "model year," "notice," "property damage," "property damage claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim," whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Toyota has previously provided a document to ODI, Toyota may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Toyota's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject vehicles Toyota has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Toyota, state the following:
  - a. Vehicle identification number (VIN);
  - b. Make;
  - c. Model;
  - d. Model Year;
  - e. Date of manufacture;
  - f. Date warranty coverage commenced; and
  - g. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

Provide the table in Microsoft Access 2000, or a compatible format, entitled "PRODUCTION DATA."

2. State the number of each of the following, received by Toyota, or of which Toyota is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:
  - a. Consumer complaints, including those from fleet operators;
  - b. Field reports, including dealer field reports;
  - c. Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;